

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In Re: LINDA MUTASCIO,)
)
)
)
)Bankruptcy No. 12-16809-elf
)Chapter 13
)Confirmation Hearing:
 Debtor)January 8, 2013 10:00 a.m.

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

THE UNITED STATES OF AMERICA, on behalf of its agency, the Internal Revenue Service (the IRS), moves that the debtor's plan be denied confirmation pursuant to 11 U.S.C. §§ 1322, 1324 and 1325(a)(5), and Fed. R. Bankr. P. 3015(f) (hereinafter all statutory references are to the Bankruptcy Code unless otherwise stated).

IN SUPPORT THEREOF, the United States alleges:

1. The debtor filed a bankruptcy petition seeking relief under Chapter 13 on July 19, 2012.
2. The debtor filed a Chapter 13 plan on August 19, 2012.
3. The Service filed a Proof of Claim for federal taxes dated September 5, 2012, setting forth a secured priority tax claim in the amount of \$52,547.85, an unsecured priority tax claim in the amount of \$309,563.86, and an unsecured general tax claim in the amount of \$20,725.73. A copy of the Proof of Claim is attached hereto as Exhibit A.

4. The debtor filed one prior bankruptcy petition under Chapter 13; No. 10-19139, filed October 22, 2010 and dismissed April 20, 2011.

5. The plan should not be confirmed since it does not provide for full payment of the secured tax claim, plus post-confirmation interest as required by 11 U.S.C. § 1325(a)(5).

6. The plan should not be confirmed because it provides for payments of the IRS's claims outside of the plan. 11 U.S.C. §§ 1322(a)(2), 1325(a)(5).

7. The plan should not be confirmed since it does not provide for full payment in deferred cash installments of the unsecured priority tax claim in accordance with 11 U.S.C. § 1322(a)(2).

8. The plan should not be confirmed since the debtor failed to file her income tax return (Form 1040) for the tax period ending December 31, 2011; without the benefit of the past due return, the IRS cannot prepare an accurate Proof of Claim. See Exhibit A.

9. According to section 1308(a) of the Bankruptcy Code, no later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), the debtor must file all tax returns for all prepetition taxable periods ending during the four-year period prior to or on the

date of the filing of the bankruptcy petition. See 11 U.S.C.
§ 1308(a).

WHEREFORE, the United States respectfully requests that
confirmation of the debtor's plan be denied.

ZANE DAVID MEMEGER
United States Attorney

Date:

12/19/12

By:

Kathleen K. Raup

KATHLEEN K. RAUP
Special Asst. U.S. Attorney
Mellon Independence Center
701 Market Street
Suite 2200
Philadelphia, PA 19106
Telephone: (215) 861-0743